



# WHAT IS THE OFFICE OF THE PUBLIC ADVOCATE

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*Guardianship & Administration Act 1993*  
*Advance Care Directives Act 2013*  
*Consent to Medical Treatment & Palliative Care Act 1995*  
*Mental Health Act 2009*

## WHY WAS THE OFFICE OF THE PUBLIC ADVOCATE SET UP?

The Office of the Public Advocate was created to promote and protect the rights of people with mental incapacity in South Australia. The Public Advocate is an independent statutory official accountable to the South Australian Parliament. The State Government funds the Office of the Public Advocate which exists to assist the Public Advocate fulfil statutory responsibilities.

## IS THE OFFICE OF THE PUBLIC ADVOCATE SEPARATE FROM THE SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL?

Yes. The Office of the Public Advocate is independent of, and completely separate from, the South Australian Civil and Administrative Tribunal (the Tribunal).

## WHO ARE THE CLIENTS OF THE OFFICE OF THE PUBLIC ADVOCATE?

The Office of the Public Advocate has three main client groups:

- people with mental incapacity / impaired decision-making capacity
- family, carers and friends of people with mental incapacity / impaired decision making capacity ;
- people and organisations with an interest in issues arising from mental incapacity.

## WHAT DOES THE OFFICE OF THE PUBLIC ADVOCATE DO?

The Office of the Public Advocate has several legislative responsibilities:

### Information and Education Service

The Office of the Public Advocate provides information and advice about issues that are or could be affecting a person with mental incapacity or impaired decision making capacity. The Office provides information about the operation of four pieces of legislation - the *Guardianship and Administration Act 1993*, the *Mental Health Act 2009*, the *Advance Care Directives Act 2013* and the *Consent to Medical Treatment and Palliative Care Act 1995*. It has produced a range of pamphlets and other resources, which are available from the website at [www.opa.sa.gov.au](http://www.opa.sa.gov.au).

### Dispute Resolution

The *Advance Care Directives Act 2013* and the *Consent to Medical Treatment and Palliative Care Act 1993* authorise the Public Advocate to provide information, preliminary assistance, and mediation to assist in the resolution of disputes about advance care directives, (i.e. health, accommodation or personal decisions) and medical treatment decisions.

The Public Advocate is also authorised to make Declarations in relation to an advance care directive *See Information Sheet 27: Dispute Resolution Service*

### Investigation

The Tribunal can direct the Public Advocate to investigate the circumstances of a person about whom it has received an application - a person who is believed to have a mental incapacity and to be at risk of some form of harm (physical, psychological or financial). The Office of the Public Advocate provides a report on the investigation to the Tribunal to assist the Tribunal make a decision.

## Office of the Public Advocate

The Public Advocate is an independent statutory officer accountable to the South Australian Parliament

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## **Guardian of Last Resort**

When a guardian is needed to make lifestyle, accommodation and/or medical decisions for a person with a mental incapacity, and there is no other appropriate person to be appointed, the Tribunal may appoint the Public Advocate as guardian of last resort. [See Information Sheet 4: Guardianship Orders](#)

## **Advocacy**

The Office of the Public Advocate undertakes some individual advocacy work but is mainly concerned with systems advocacy. The office speaks for and supports people with mental incapacity by reporting on situations that infringe upon their rights and interests. The Public Advocate can make recommendations to the Minister for Health, the Minister for Disability and the Attorney-General for legislative and/or operational change, and can require the Attorney-General to submit a report on any matter to both Houses of State Parliament.

## **HOW DOES THE OFFICE OF THE PUBLIC ADVOCATE DO ITS WORK?**

The aim of the Office of the Public Advocate is to enhance the quality of life whilst safeguarding the health and wellbeing of those people in the community who are vulnerable to self-neglect, abuse or exploitation.

The Public Advocate and Office of the Public Advocate staff:

- work to increase the quality of adult guardianships across South Australia.
- foster strong partnerships with service providers and the community to enhance the lives and potential of clients.
- identify key areas of unmet, or inappropriately met, needs of mentally incapacitated persons, and take action for improvement.

The Public Advocate and Office of the Public Advocate staff are committed to the following values:

- the people with whom the office is involved deserve to be treated with courtesy, dignity and respect.
- working in partnership with others, to achieve the best possible outcomes for clients.

## **DOES THE OFFICE OF THE PUBLIC ADVOCATE HANDLE COMPLAINTS?**

The Office of the Public Advocate is not a complaints body. Complaints about health or community services should initially be brought to the attention of the agency involved.

## **WHAT IF A PERSON HAS A COMPLAINT ABOUT THE OFFICE OF THE PUBLIC ADVOCATE?**

If a person has a complaint about the Office of the Public Advocate, he or she should follow the procedures in the Complaints Policy. [See Information Sheet 20: Office of the Public Advocate Complaints Policy](#)